

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ELLETT Y. WALKER,

Plaintiff,

v.

ORDER  
08-CV-828A

MICHAEL J. ASTRUE  
Commissioner of Social Security,

Defendant.

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The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). The parties filed cross motions for judgment on the pleading pursuant to Fed. R. Civ. P. ("Rule") 12(c)[6,8]. On June 11, 2010, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion be denied and that plaintiff's cross-motion be granted in part and denied in part.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion is denied and plaintiff's cross-motion is granted in part and denied in part. The case is remanded to the Commissioner for further proceedings. The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: June 28, 2010